

REMARKS

Review and reconsideration of the Office Action of August 6, 2004 is respectfully requested in view of the above amendments and the following remarks.

Claim Rejections - 35 USC § 102

In the Office Action the Examiner rejects claims 11 and 13 under 35 USC §102(b) as anticipated by US 5,146,752 (Bruestle).

Applicants respectfully traverse.

The prior art teaches the engineering considerations and physics principles (lever length, stroke length, arc, translation angles, etc.) for designing an appropriate adjusting mechanism for a particular task. Once the length of a transmitting mechanism (lever, actuating rod) is determined, the device is manufactured according to engineering practices and assembled to provide a functional adjusting mechanism. In fact, engineering considerations require that a transmitting element should be manufactured with the least number of parts, in order to minimize failure and keep costs to a minimum.

The present invention is based on the discovery that if the transmitting mechanism is made adjustable, the diversity of applications to which it could be applied increase the economic value more than the cost of making the transmitting element adjustable.

The present invention thus provides a transmitting element with a adjusting device for altering the control movement of the actuating device. The main embodiments are claimed in claims 11, 15 and 17.

Turning to Bruestle, Applicants respectfully traverse.

The transmission device 34 of Bruestle is not adjustable. Bruestle does not explain the shapes, forms, structure, material or connections between an actuator and the adjusting ring. Bruestle only contains a very simple drawing and simply names the part between the actuator and the adjusting ring as a "shaft". Nowhere is the shaft given an adjustable function, and without such teaching, Applicants submit that the reference can not anticipate.

The Examiner submits that the shaft of Bruestle is "inherently" adjustable, if only by brute force.

Applicants respectfully traverse this interpretation of the teaching of Bruestle. Bending a shaft by brute force would render the shaft unsuitable for its intended purpose. For transmission of force along a shaft, the shaft must be straight. Once the shaft is bent (at least, sufficient to make the shaft "adjustable"), the curved shaft will no longer be able to transmit push and pull forces. These forces would, at least in part, be taken up by the elasticity of the bend, so that the precise position of, e.g., the guide vanes of a variable geometry turbocharger, would no longer be controllable with the high precision required.

The present invention, in contrast, provides an adjusting device suitable, e.g., to adapt a transmission device of an actuating device to different turbochargers, or for to operate optimally over different temperature ranges.

Accordingly, Bruestle neither teaching nor suggesting an adjustable transmitting member, withdrawal of the rejection is respectfully requested.

Next, the Examiner rejects claims 11-14 and 16 under 35 USC §102(b) as anticipated by US 4,490,622 (Osborn).

Applicants respectfully traverse in view of the combination of claims 11 and 16.

Osborn discloses an actuator 80 that includes a controller 84 operated to extend and retract control rod 86. Control rod 86 is attached to the end of extension 262 remote from nipple 242. Control rod 86 includes a **threaded** eye bolt 86a attached to the extension 262 by an axis pin. The opposite end of **threaded** eye bolt 86a is received within control rod 86 and is adjustable therein to allow for the readjustment of nozzle vanes 234 about their rotational axes. By the movement of control rod 86, actuation lever 240 is pivoted to angularly rotate outer ring 252 of control ring 246 thereby rotating each of the other actuation levers 240 and nozzle vanes 234 attached thereto.

In response, Applicants respectfully traverse in view of the amendment of claim 11 to define the adjusting mechanism as including

a) fixing device (19) including at least one internal threading (19) of the second part (16 or 15) for receiving the external threading of the first part (15 or 16), via which the adjustment occurs,

b) wherein the internal threading (19) is a threaded nut mounted (19) rotatable on an associated abutment piece (16),

c) which is rotatably mounted **in the hollow space (18) of the abutment piece (16)** and in its axial position is axially located by at least one wall segment (21a, 21b) extending perpendicular to the longitudinal axis (a) of the abutment piece (16),

d) which is formed by at least one wall recess (20a, 20b) in the hollow space (18) of the abutment piece (16), and

e) wherein the wall recess (20a,20b) has a through-hole whereby a part of the circumference of the threaded nut (19) projects outwards for adjustment.

Accordingly, none of the independent claims 11, 15 and 17 are anticipated by Osborne.

Withdrawal of the rejection is respectfully requested.

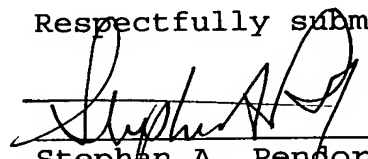
Allowable Subject Matter

The Examiner objected claims 15 and 17-20 as being dependent upon a rejected base claim, but indicates that they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants would like to thank the Examiner for this indication and in response, Applicants have re-written Claims 15 and 17 in independent form.

Early issuance of the Notice of Allowance is respectfully requested. Should the Examiner have any further suggestions, he is respectfully invited to contact the undersigned.

Respectfully submitted,


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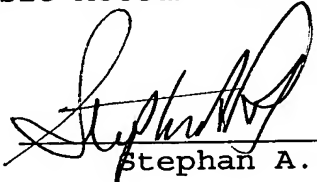
U.S. Patent Application No.: 10/668,744
AMENDMENT A

DKT02058

CERTIFICATE OF MAILING AND AUTHORIZATION TO CHARGE

I hereby certify that a copy of the foregoing AMENDMENT A for U.S. Application No. 10/668,744 filed September 22, 2003, was deposited in first class U.S. mail, with sufficient postage, addressed: Mail Stop: Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on **December 6, 2004.**

The Commissioner is hereby authorized to charge any additional fees which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account No. 16-0877.


Stephan A. Pendorf